## DOCUMENT A/47/1005

## Memorandum by the Secretary-General

[*Original: English*]
[*26 August 1993*]

### I. INTRODUCTION

1. By its resolution 827 (1993) of 25 May 1993, the Security Council approved the report of the Secretary-General prepared pursuant to paragraph 2 of Council resolution 808 (1993) of 22 February 1993,[1] and decided to establish an international tribunal for the sole purpose of prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia between 1 January 1991 and a date to be determined by the Security Council upon the restoration of peace, and to that end to adopt the statute of the International Tribunal[2] annexed to the Secretary-General's report.

2. At its 104th plenary meeting, on 28 May 1993, the General Assembly decided, on the proposal of the Secretary-General (see document A/47/955 above), to include in the agenda of its forty-seventh session an item entitled "Election of judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991" (item 156).

3. Pursuant to article 13, subparagraph 2 (*a*), of the statute of the International Tribunal,[2] the Legal Counsel, on behalf of the Secretary-General, invited, by circular letter of 3 June 1993, all States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters to submit their nominations for judges of the International Tribunal. In accordance with article 13, subparagraph 2 (*b*), of the statute, each State was invited to nominate, within 60 days of the date of the invitation, up to two candidates, no two of whom were to be of the same nationality.

4. The nominations received were forwarded by the Secretary-General to the President of the Security Council in accordance with article 13, subparagraph 2 (*c*), of the statute of the International Tribunal. At its 3265th meeting, on 20 August 1993, the Security Council, in accordance with that article, established a list of twenty-three candidates, taking due account of the adequate representation of the principal legal systems of the world. The Council adopted the list on 20 August 1993 by its resolution 857 (1993), and it was formally conveyed to the President of the General Assembly by a letter of the same date from the President of the Security Council (see document A/47/1003 above).

5. The list of candidates for judges and the procedure for the election of the judges of the International Tribunal are set out below. The curricula vitae of the candidates will be transmitted to the General Assembly in a separate document (A/47/1006).

### II. LIST OF CANDIDATES FOR JUDGES OF THE INTERNATIONAL TRIBUNAL

6. The list of candidates for judges of the International Tribunal is as follows:[3]

[*Same list as contained in document A/47/1003 above.*]

### III. PROCEDURE FOR THE ELECTION OF JUDGES

7. The election of judges will take place in accordance with the following provisions:

(*a*) Article 13 of the Statute of the International Tribunal;

(*b*) Given the similar nature of the election of judges of the International Court of Justice and the election of judges of the International Tribunal, the Secretary-General suggests that similar election procedures should be followed in the General Assembly. For this reason, it is suggested that rule 151 of the rules of procedure of the General Assembly shall apply to the election of judges of the International Tribunal.

8. In accordance with article 13, subparagraph 2 (*a*), of the statute of the International Tribunal, the Holy See and Switzerland, the two non-member States maintaining permanent observer missions at United Nations Headquarters which were invited to nominate judges for the International Tribunal, will participate in the election in the same manner as the States Members of the United Nations.

9. On the date of the election, the General Assembly shall elect eleven judges from the list of candidates submitted to it by the Security Council. Only those candidates whose names appear on the ballot papers are eligible for election. The electors will indicate the candidates for whom they wish to vote by placing crosses against their names on the ballot papers.

10. The candidates who receive an absolute majority of the votes of States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected (art. 13, subpara. 2 (*d*), of the statute).

11. The consistent practice of the United Nations has been to interpret the words "absolute majority" as meaning a majority of all electors, whether or not they vote. The electors, for this purpose, are all the Member States and the two non-member States mentioned in paragraph 8 above. Accordingly, ninety-four votes constitute an absolute majority in the General Assembly for the purpose of electing judges of the International Tribunal.

12. If fewer than the required number of candidates obtain the absolute majority in the first ballot, a second ballot will be held and balloting will continue at the same meeting until the required number of candidates obtain an absolute majority. Following the practice in the election of judges of the International Court of Justice, the Secretary-

[1] S/25704 and Corr.1 and Add.1; see *Official Records of the Security Council, Forty-eighth Year, Supplement for April, May and June 1993*, documents S/25704 and Add.1.

[2] S/25704 and Corr.1, annex; see *Official Records of the Security Council, Forty-eighth Year, Supplement for April, May and June 1993*, document S/25704, annex.

[3] By a communication received on 26 August 1993, the Permanent Representative of Sweden to the United Nations informed the President of the General Assembly that Mr. Hans Corell, one of the 23 candidates on the list established by the Security Council, had decided to withdraw his candidacy for judge of the International Tribunal.

General suggests that subsequent balloting shall be unrestricted. Accordingly, each elector may vote for eleven candidates in the first ballot and, in any subsequent ballots, for eleven less the number of candidates who have already obtained absolute majorities.

13. If more than the required number of candidates obtain the absolute majority of votes in the first ballot, a second ballot will be held on all candidates and balloting will continue at the same meeting until the required number of candidates, and no more, obtain an absolute majority. In any such case, each elector may vote, in the first ballot and in any subsequent ballot, for eleven candidates.

14. When eleven candidates obtain the required majority, the President of the General Assembly shall declare the candidates elected.

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## ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 111th plenary meeting, held from 15 to 17 September 1993, the General Assembly, in accordance with article 13 of the statute of the International Tribunal,[2] elected the following eleven persons as judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for a four-year term of office beginning on 17 November 1993:

Mr. Georges Michel ABI-SAAB (Egypt),

Mr. Antonio CASSESE (Italy),

Mr. Jules DESCHÊNES (Canada),

Mr. Adolphus Godwin KARIBI-WHYTE (Nigeria),

Mr. Germain LE FOYER DE COSTIL (France),

Mr. LI Haopei (China),

Ms. Gabrielle Kirk McDONALD (United States of America),

Ms. Elizabeth ODIO BENITO (Costa Rica),

Mr. Rustam S. SIDHWA (Pakistan),

Sir Ninian STEPHEN (Australia),

Mr. Lal Chan VOHRAH (Malaysia).

For the final text, see decision 47/328.[4]

[4]See *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 49*, vol. II.

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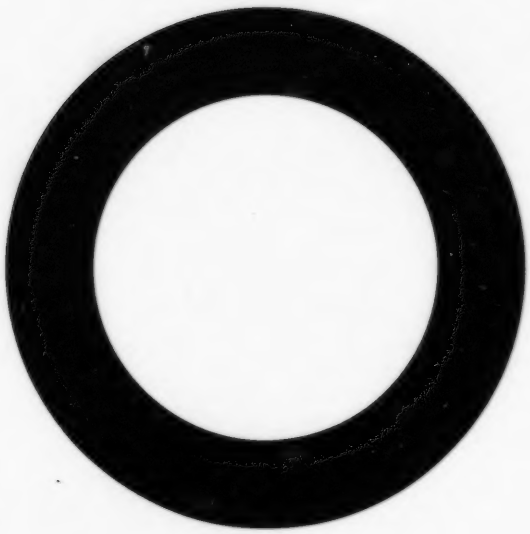
## LIST OF OTHER DOCUMENTS PERTAINING TO THE ITEM

| *Symbol* | *Title or description* | *Observations and references* |
|---|---|---|
| A/47/1006 | Curricula vitae of candidates nominated by States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters: note by the Secretary-General | |



*United Nations*

# GENERAL ASSEMBLY

*Official Records*

*Agenda item 157*

**ANNEXES**

**FORTY-SEVENTH SESSION**

NEW YORK, 1992/1993

## Agenda item 157: Financing of the United Nations Peace-keeping Force in Cyprus*

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* For the records of the relevant meetings, see *Official Records of the General Assembly, Forty-seventh Session, Fifth Committee*, 73rd and 76th meetings, and corrigendum; and ibid., *Plenary Meetings*, 110th meeting.

## DOCUMENT A/47/966

### Secretary-General: request for the inclusion of an additional item in the agenda of the forty-seventh session

[*Original: English*]
[*15 June 1993*]

NOTE BY THE SECRETARY-GENERAL

1. The Secretary-General has the honour to request, pursuant to rule 15 of the rules of procedure of the General Assembly, the inclusion in the agenda of the forty-seventh session of an additional item, entitled "Financing of the United Nations Peace-keeping Force in Cyprus".

2. Owing to the nature of the item, the Secretary-General further requests that it be allocated to the Fifth Committee.

## DOCUMENT A/47/1015

### Report of the Fifth Committee

[*Original: Spanish*]
[*10 September 1993*]

1. At its 106th plenary meeting, on 22 June 1993, the General Assembly, on the proposal of the Secretary-General, decided to include in the agenda of its forty-seventh session, as item 157, an item entitled "Financing of the United Nations Peace-keeping Force in Cyprus" and to allocate it to the Fifth Committee for consideration and report.

2. At its 73rd and 76th meetings, on 31 August and 10 September 1993, the Fifth Committee considered the item. It had before it the report of the Secretary-General on the financing of the United Nations Peace-keeping Force in Cyprus (A/47/1001) and the related report of the Advisory Committee on Administrative and Budgetary Questions (A/47/1004).

3. Statements and observations made in the course of the Committee's consideration of the item are reflected in the summary records of the meetings (A/C.5/47/SR.73 and 76).

4. At the 76th meeting, the representative of Hungary introduced a draft resolution (A/C.5/47/L.45).

5. At the same meeting, the Committee adopted draft resolution A/C.5/47/L.45 without a vote (see para. 6 below).

***Recommendation of the Fifth Committee***

6. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

FINANCING OF THE UNITED NATIONS PEACE-KEEPING FORCE IN CYPRUS

*The General Assembly,*

*Having considered* the report of the Secretary-General on the financing of the United Nations Peace-keeping Force in Cyprus (A/47/1001) and the related report of the Advi-

sory Committee on Administrative and Budgetary Questions (A/47/1004),

*Bearing in mind* Security Council resolution 186 (1964) of 4 March 1964, by which the Council established the United Nations Peace-keeping Force in Cyprus, and the subsequent resolutions by which the Council extended the mandate of the Force, the latest of which was resolution 839 (1993) of 11 June 1993,

*Recognizing* that, in order to meet the expenditures caused by the Force with effect from 16 June 1993, a different procedure is required from the one applied to meet expenditures of the regular budget of the United Nations,

*Taking into account* the fact that the economically more developed countries are in a position to make relatively larger contributions and that the economically less developed countries have a relatively limited capacity to contribute towards such an operation,

*Bearing in mind* the special responsibilities of the States permanent members of the Security Council, as indicated in General Assembly resolution 1874 (S-IV) of 27 June 1963, in the financing of such operations,

*Noting with appreciation* that voluntary contributions have been made to the Force by certain Governments,

*Noting* that voluntary contributions were insufficient to cover all of the costs of the operation, including those incurred by troop-contributing Governments prior to 16 June 1993, and regretting the absence of an adequate response to the various appeals for voluntary contributions, including the one contained in section IV of General Assembly resolution 47/218 A of 23 December 1992,

*Appreciating* the continued efforts of Governments providing troops to the Force,

*Mindful* of the fact that it is essential to provide the Force with the necessary financial resources to enable it to fulfil its mandate,

1. *Reaffirms*, in the context of paragraph 4 of Security Council resolution 831 (1993) of 27 May 1993, in which the Council addressed the issue of the financing of the United Nations Peace-Keeping Force in Cyprus, the role of the General Assembly, as set out in Article 17 of the Charter of the United Nations, as the organ to consider and approve the budget of the Organization, as well as the apportionment of its expenses among Member States;

2. *Expresses concern* that advice given to the Security Council by the Secretariat on the nature of the financing of the Force did not respect the role of the General Assembly as set out in Article 17 of the Charter;

3. *Requests* the President of the General Assembly to bring to the attention of the President of the Security Council the contents of the present resolution;

4. *Endorses* the observations and recommendations contained in the report of the Advisory Committee on Administrative and Budgetary Questions (ibid.);

5. *Requests* the Secretary-General to take all necessary action, in accordance, *inter alia*, with the observations and recommendations of the Advisory Committee, to ensure that the Force is administered with a maximum of efficiency and economy, to improve management, and to include in his report on this item to the General Assembly information on the steps taken in this regard;

6. *Urges* all Member States to make every possible effort to ensure payment of their assessed contributions to the Force promptly and in full;

7. *Decides* that the costs of the Force for the period beginning 16 June 1993 that are not covered by voluntary contributions should be treated as expenses of the Organization to be borne by Member States in accordance with Article 17, paragraph 2, of the Charter;

8. *Decides also* to appropriate the amount of 8,771,000 United States dollars gross (8,443,000 dollars net) for the period from 16 June to 15 December 1993, and, accordingly, requests the Secretary-General to establish a special account for the United Nations Peace-keeping Force in Cyprus in accordance with paragraph 29 of his report (A/47/1001);

9. *Decides further*, as an ad hoc arrangement, to apportion the amount of 8,771,000 dollars gross (8,443,000 dollars net) for the above-mentioned period among Member States, in accordance with the composition of groups set out in paragraphs 3 and 4 of General Assembly resolution 43/232 of 1 March 1989, as adjusted by the Assembly in its resolutions 44/192 B of 21 December 1989, 45/269 of 27 August 1991, 46/198 A of 20 December 1991 and 47/218 A of 23 December 1992, and taking into account the scale of assessments set out in Assembly resolution 46/221 A of 20 December 1991 and Assembly decision 47/456 of 23 December 1992;

10. *Decides* that, in accordance with the provisions of its resolution 973 (X) of 15 December 1955, there shall be set off against the apportionment among Member States, as provided for in paragraph 9 above, their respective share in the Tax Equalization Fund of the estimated staff assessment income of 328,000 dollars for the period from 16 June to 15 December 1993 approved for the Force;

11. *Decides* to establish the contributions of Andorra, the Czech Republic, Eritrea, the former Yugoslav Republic of Macedonia, Monaco and Slovakia to the Force in accordance with the rates of assessment to be adopted by the General Assembly for these Member States at its forty-eighth session;

12. *Invites* the new Member States listed in paragraph above to make advance payments against their assessed contributions, to be determined;

13. *Invites* voluntary contributions to the Force in cash and in the form of services and supplies acceptable to the Secretary-General, to be administered, as appropriate, in accordance with the procedure established by the General Assembly in its resolutions 43/230 of 21 December 1988, 44/192 A of 21 December 1989 and 45/258 of 3 May 1991;

14. *Decides* to maintain as separate the account established prior to 16 June 1993 for the Force, invites Member States to make voluntary contributions to that account, and, in this regard, requests the Secretary-General to intensify his efforts in appealing for voluntary contributions to this account;

15. *Requests* the Secretary-General, taking into account the voluntary nature of the financing of the Force prior to 16 June 1993, to report, no later than 31 January 1994, on the status of the account referred to in paragraph 14 above;

16. *Decides* to include in the draft agenda of its forty-eighth session the item entitled "Financing of the United Nations Peace-keeping Force in Cyprus".

## ACTION TAKEN BY THE GENERAL ASSEMBLY

At its 110th plenary meeting, on 14 September 1993, the General Assembly adopted the draft resolution submitted by the Fifth Committee in its report (A/47/1015, para. 6). For the final text, see resolution 47/236.[1]

[1] See *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 49*, vol. II.

## LIST OF OTHER DOCUMENTS PERTAINING TO THE ITEM

| *Symbol* | *Title or description* | *Observations and references* |
|---|---|---|
| A/47/1001 | Report of the Secretary-General | |
| A/47/1004 | Report of the Advisory Committee on Administrative and Budgetary Questions | |
| A/C.5/47/L.45 | Draft resolution | See A/47/1015, paras. 4 and 6 |

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Litho in United Nations, New York Volume II 93-93398—October 1997—1,725